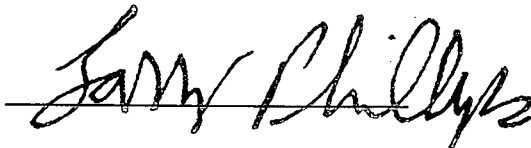


I certify this to be a true and correct
copy of the indicated document as
referred or transmitted to committee.

Chief Clerk of the House

FILED MAR 07 2005

By:



H.B. No. 2132

A BILL TO BE ENTITLED

AN ACT

relating to rates charged for water or sewer services by an entity
that takes over a nonfunctioning water or sewer system.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 13, Water Code, is amended
by adding Section 13.046 to read as follows:

Sec. 13.046. TEMPORARY RATES FOR SERVICES PROVIDED FOR
NONFUNCTIONING SYSTEM; SANCTIONS FOR NONCOMPLIANCE. (a) The
commission by rule shall establish a procedure that allows a retail
public utility that takes over the provision of services for a
nonfunctioning retail water or sewer utility service provider to
charge a reasonable rate for the services provided to the customers
of the nonfunctioning system and to bill the customers for the
services at that rate immediately to recover service costs.

(b) The rules must provide a streamlined process that the
retail public utility that takes over the nonfunctioning system may
use to apply to the commission for a ruling on the reasonableness of
the rates the utility is charging under Subsection (a). The process
must allow for adequate consideration of costs for interconnection
or other costs incurred in making services available and of the
costs that may necessarily be incurred to bring the nonfunctioning
system into compliance with commission rules.

(c) The commission shall provide a reasonable period for the
retail public utility that takes over the nonfunctioning system to

1 bring the nonfunctioning system into compliance with commission
2 rules during which the commission may not impose a penalty for any
3 deficiency in the system that is present at the time the utility
4 takes over the nonfunctioning system. The commission must consult
5 with the utility before determining the period and may grant an
6 extension of the period for good cause.

7 SECTION 2. This Act takes effect September 1, 2005.

HOUSE COMMITTEE REPORT

05 APR 28 PM 8:08
HOUSE OF REPRESENTATIVES

1st Printing

By: Phillips

H.B. No. 2132

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(b) The rules must provide a streamlined process that the retail public utility that takes over the nonfunctioning system may use to apply to the commission for a ruling on the reasonableness of the rates the utility is charging under Subsection (a). The process must allow for adequate consideration of costs for interconnection or other costs incurred in making services available and of the costs that may necessarily be incurred to bring the nonfunctioning system into compliance with commission rules.

(c) The commission shall provide a reasonable period for the retail public utility that takes over the nonfunctioning system to

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5 with the utility before determining the period and may grant an
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COMMITTEE REPORT

The Honorable Tom Craddick
Speaker of the House of Representatives

4/20/05
(date)

Sir:

We, your COMMITTEE ON NATURAL RESOURCES

to whom was referred HB 2132 have had the same under consideration and beg to report back with the recommendation that it

- ☒ do pass, without amendment.
- ☐ do pass, with amendment(s).
- ☐ do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.
- ☒ yes ☐ no A fiscal note was requested.
- ☐ yes ☒ no A criminal justice policy impact statement was requested.
- ☐ yes ☒ no An equalized educational funding impact statement was requested.
- ☐ yes ☒ no An actuarial analysis was requested.
- ☐ yes ☒ no A water development policy impact statement was requested.
- ☐ yes ☒ no A tax equity note was requested.
- ☐ The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor _____

Joint Sponsors: _____ / _____ / _____

Co-Sponsors: _____

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Puente, Chair	X			
Callegari, Vice-chair				X
Bonnen	X			
Campbell				X
Geren	X			
Hardcastle	X			
Hilderbran	X			
Hope		X		
Laney	X			

Total
6 aye
1 nay
0 present, not voting
2 absent

Alf Alf
CHAIR

BILL ANALYSIS

H.B. 2132
By: Phillips
Natural Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

When a retail water or sewer system becomes non-functional, another retail public utility provider can take over the non-functional system in order to avoid disruption of service to the customers of the system. Often, the rates charged by the non-functioning system are inadequate to properly provide the service and the infrastructure of the system is non-complaint with state regulated standards. However, there is not an expedited process by which the price of service may be adjusted to reflect the actual costs to the provider which takes over the non-functional system. In these cases, the provider taking over the system is forced to charge inadequate rates and operate at a loss until the lengthy rate adjustment process is complete through the Texas Commission on Environmental Quality (TCEQ.) Additionally, the provider taking over the system may find its own system immediately out of compliance due to the emergency acquisition of the non-functional system and subject to fines from TCEQ.

HB 2132 would direct TCEQ to adopt rules to provide for an expedited rate adjustment process for retail public utility providers which take over a non-functioning retail water or sewer system. The provider would be allowed to charge a reasonable rate to customers immediately upon takeover of the non-functioning system. The bill would also direct TCEQ to allow a reasonable amount of time for the provider to bring the non-functioning into compliance with commission rules.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 1 of this bill.

ANALYSIS

SECTION 1. Adds §13.046, Water Code to direct the Texas Commission on Environmental Quality (TCEQ) to adopt rules to allow a retail public utility to charge a reasonable rate to customers immediately upon takeover of the provision of services for a non-functioning retail water or sewer utility service to recover service costs. The rules must provide an expedited process by which the retail public utility may apply to TCEQ for a determination of the reasonableness of the rates. The bill would also direct TCEQ to allow a reasonable amount of time for the provider to bring the non-functioning system into compliance with TCEQ rules.

EFFECTIVE DATE

HB 2132 takes effect on September 1, 2005.

SUMMARY OF COMMITTEE ACTION

HB 2132

April 18, 2005 2:00PM or upon final adjourn./recess

Considered in public hearing

Left pending in committee

April 20, 2005 upon final adjourn./recess

Considered in formal meeting

Reported favorably without amendment(s)

2
1

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 17, 2005

TO: Honorable Robert Puente, Chair, House Committee on Natural Resources

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: HB2132 by Phillips (Relating to rates charged for water or sewer services by an entity that takes over a nonfunctioning water or sewer system.), **As Introduced**

<p>No significant fiscal implication to the State is anticipated.</p>
--

The bill would allow public utilities taking over non-functioning systems to immediately charge a reasonable rate for water and/or sewer services to recover service costs. The Texas Commission on Environmental Quality (TCEQ) would be required to provide a reasonable time for the utility to bring the non-functioning utility into compliance. During this time, the TCEQ would not be allowed to impose any penalties for any deficiencies in the system that is present at the time the utility takes over.

The bill's passage is not expected to result in a significant increase in workload to the TCEQ, and it is not expected to result in a significant loss in revenue to the state.

Local Government Impact

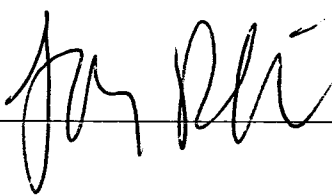
No significant fiscal implication to units of local government is anticipated.

Source Agencies: 582 Commission on Environmental Quality

LBB Staff: JOB, WK, ZS, TL, KJG

H.B. No. 2132

A BILL TO BE ENTITLED
AN ACT

By 

relating to rates charged for water or sewer services by an entity that takes over a nonfunctioning water or sewer system.

MAR 07 2005 Filed with the Chief Clerk

MAR 14 2005 Read first time and referred to Committee on Natural Resources

APR 20 2005 Reported favorably (unanimous)

MAY 02 2005 Sent to Committee on (Calendars) (unanimous)

Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend) by a vote of _____ yeas, _____ nays, _____ present, not voting

Read third time (amended); finally passed (failed to pass) by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

Engrossed

Sent to Senate

CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

Received from the House

Read and referred to Committee on _____

Reported favorably _____

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

Ordered not printed

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by (unanimous consent) (_____ yeas, _____ nays)

Read second time, _____, and passed to third reading by (unanimous consent) (a viva voce vote) (_____ yeas, _____ nays)

Senate and Constitutional 3 Day Rules suspended by a vote of _____ yeas, _____ nays

Read third time, _____, and passed by a (viva voce vote) (_____ yeas, _____ nays)

Returned to the House

SECRETARY OF THE SENATE

OTHER SENATE ACTION:

_____ Returned from the Senate (as substituted)
(with amendments)

_____ House concurred in Senate amendments by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House refused to concur in Senate amendments and requested the appointment of a conference committee
by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House conferees appointed: _____, Chair; _____,
_____, _____, _____

_____ Senate granted House request. Senate conferees appointed: _____, Chair;
_____, _____, _____

_____ Conference committee report adopted (rejected) by the House by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Conference committee report adopted (rejected) by the Senate by a (viva voce vote)
(record vote of _____ yeas, _____ nays)

05 APR 28 PM 8:08
HOUSE OF REPRESENTATIVES